

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1-10 are pending in the application, with claim 1 being the independent claims. Claim 1 is sought to be amended to correct informal or typographical errors. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Rejections under 35 U.S.C. § 102

In the Office Action, the Examiner rejects claims 1-8 and 10 under 35 U.S.C. § 102(e), as allegedly being anticipated by U.S. Patent No. 6,563,829 to Lyles *et al.* (herein referred to as “Lyles”). (See Paper No. 7, page 2). Applicants respectfully traverse.

As noted above, Claim 1 is sought to be amended to correct informal or typographical errors. Notwithstanding the aforesaid amendment, Lyles does not disclose each and every element, limitation, and/or feature of claims 1-10. For example, with respect to independent claim 1, Lyles does not disclose a method for “managing upstream communications *from the local scheduler*” that comprises any of the following:

(c) considering the needs of a plurality of services, said plurality of services including the requesting service and at least one other service;

(d) scheduling packets for said plurality of services in response to said considering step; and

(e) transmitting a burst based on the scheduled packets to the remote node.

In the Office Action, the Examiner asserts that “the scheduler *located at NAU 315* performs the step of calculating the needs of a plurality of services...; and then the scheduler performs the step of scheduling for transmitting plurality of CoS data packets to the head-end 105.” (Paper No. 7, page 3, emphasis added). However, the passages utilized by the Examiner to support the aforesaid assertion actually describe that the above-mentioned steps are executed by Lyles’ BAU 305 (*not* the NAU 315). (Lyles, col. 7, lines 7-9 and col. 8, lines 44-48). Specifically, Lyles discloses that “the method, executed by the head-end controller 105 (or other bandwidth allocation unit 305), comprises:...generating a virtual scheduling time [5] for the requested transmission, based on (1) the time of arrival of the transmission authorization request 405 [6], (2) a class of service associated with the transmission authorization request 405 [7], and (3) a virtual scheduling time of a previous transmission authorization request 405 made on behalf of the identified terminal equipment 210 [8].” (Lyles, col. 8, lines 35-37 and lines 44-51).

Dependent claims 2-10 depend from claim 1, and therefore, are patentable over Lyles for at least the reasons stated above, in addition to the elements, limitations, and/or features recited therein. Accordingly, Applicants respectfully request reconsideration and withdrawal of the Examiner’s rejection of the aforesaid claims, and allowance thereof.

Rejections under 35 U.S.C. § 103

In the Office Action, the Examiner rejects claim 9 under 35 U.S.C. § 103(a), as allegedly being unpatentable over Lyles. (See Paper No. 7, page 4). Applicants respectfully traverse.

As discussed above with respect to the rejections under 35 U.S.C. § 102(e), claim 9 depends from claim 1, and therefore, is patentable over Lyles for at least the reasons stated above, in addition to the elements, limitations, and/or features recited therein. Accordingly, Applicants respectfully request reconsideration and withdrawal of the Examiner's rejection of the aforesaid claims, and allowance thereof.

Information Disclosure Statement

Applicants filed a Supplemental Information Disclosure Statement (IDS) on May 28, 2003. The IDS included a Form PTO-1449 and a copy of each of the eight (8) documents cited on the Form. In the current Office Action, the Examiner has not acknowledged receipt of the aforesaid IDS. Applicants respectfully request consideration of the aforesaid IDS.

Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will

expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Kendrick P. Patterson
Attorney for Applicants
Registration No. 45,321

Date: December 8, 2004

1100 New York Avenue, N.W.
Washington, D.C. 20005-3934
(202) 371-2600

314072_1.DOC